

REMARKS

Claims 1-13 are pending in this application. Claims 1-6 stand rejected and claims 7-13 are allowed. Applicant wishes to thank the Examiner for the indication of allowance of claims 7-13. By this Amendment, claim 1 has been amended. The amendments made to claim 1 do not alter the scope of these claims, nor have these amendments been made to define over the prior art. Rather, the amendments to claim 1 have been made to improve the form thereof. In light of the amendments and remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,295,140 ("Crisler"). Applicant respectfully requests reconsideration and withdrawal of this rejection.

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See, PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See, Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

Among the limitations of independent claim 1 not present in the cited references is a periodical processing time band during which communication is periodically conducted ... and a non-periodical processing time band during which communication is non-periodically conducted ... and data transmission is conducted at a variable length packet unit during said non-periodical processing time band.

According to the present specification, two distinct time periods are provided. A first periodical communication processing and a second non-periodical communication period. See Figure 3. During the non-periodical processing time band, data packet length is varied so that the non-periodical time period is fully utilized. As recited in the claims, the variable length packets are transmitted during a non-periodical communication time period.

To achieve the above-recited result, the claimed data bus control apparatus acquires the packet lengths of a requested transmission. The system then determines if there is an excess of communication space available on an allocated band. When there is an excess of bandwidth on the allocated band, packets to be transmitted are collected from the communication terminals to be transmitted. Because the band width request for each terminal is calculated for each request, non-uniform packet transmission can be easily accomplished. Further, due to the processing in the non-periodic band, as soon as a packet in the non-periodic band is transmitted, additional packets are available to be transmitted. See paragraph 67. Accordingly, it is possible to provide other communication terminals with transmission times during a given non-periodic period.

Crisler merely discloses a TDMA communication system. Crisler fails to disclose both a periodic and non-period time period wherein the data transmission is conducted at a variable length packet unit during the non-periodical processing time band. In Crisler, communication resources are divided into a number of time slots. The time slots are divided on a non-periodic basis into sub-slots. However, these are not the periodic and non-periodic periods recited in Applicant's claim. Further, the data transmission is not conducted at a variable length packet unit during the non-periodical processing time band. In Crisler, as recited at column 6, lines 6-10, a data packet length indicator relates to the size of the packet that the RF modem desires to send.

The base station uses the packet length indicator to determine how many time slots are required for transmission of the packet. In contrast, Applicant claims that the packet size varies to fit within the non-periodical time slot. This is unlike the use of multiple time slots to transmit a given packet. As such, Applicant respectfully submits that claim 1 is not anticipated by the Crisler reference.

Claims 2-6 depend either directly or indirectly from, and contain all the limitations of claim 1. These dependent claims also recite additional limitations which, in combination with the limitations of claim 1, are neither disclosed nor suggested by Crisler and are also believed to be directed towards the patentable subject matter. Thus, claims 2-6 should also be allowed.

Claims 2-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crisler in view of U.S. Patent No. 5,297,144 ("Gilbert"). Gilbert was not included to disclose the above-recited limitation but to show additional limitations which, even if it were to show, does not cure the deficiencies discussed above. As such, claims 2-6 are allowable over the cited combination.

Applicant has responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Application No.: 09/760,584

Docket No.: U2054.0130

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: July 12, 2005

Respectfully submitted,

By 

Ian R. Blum

Registration No.: 42,336

DICKSTEIN SHAPIRO MORIN & OSHINSKY
LLP

1177 Avenue of the Americas
New York, New York 10036-2714
(212) 835-1400
Attorney for Applicant

IRB/mgs